UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/810,407 | 03/26/2004 | Rocky Harry Nevin III | RKNV-111 | 8583 |

7590 06/25/2009

Girard & Equitz L.L.P
Suite 202
1539 Taraval St.
San Francisco, CA 94116

| EXAMINER | |
|---|---|
| LIN, SHEW FEN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2166 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/25/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/810,407 | NEVIN, ROCKY HARRY | |
| | Examiner | Art Unit | |
| | SHEW-FEN LIN | 2166 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *27 March 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *41-44,60-62 and 66* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *41-44,60-62,66* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

a. This action is taken to response to amendments and remarks filed on 3/27/2009.

b. Claims 41-44, 60-62, and 66 are pending in this Office Action.

### *Election/Restrictions*

Applicant's election of Group I in the reply filed on 3/27/2009 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### *Terminal Disclaimer*

The terminal disclaimer filed on December 12, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent 6,714,936 has been reviewed and is NOT accepted.

An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c).

The person who signed the terminal disclaimer is not recognized as an officer of the assignee, and he/she has not been established as being authorized to act on behalf of the assignee. See MPEP § 324.

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 41, 43, and 66 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim1 of U.S. Patent No. **6,714,936**. The following table shows the claims in Instant Application that are rejected by corresponding claim(s) in U.S. Patent No. **6,714,936**.

| ***Claims Comparison Table*** | | |
|---|---|---|
| | **Instant Application** | **U.S. Patent No. 6,714,936** |
| Claim # | 41 | 1 |
| Claim # | 43 | 1 |

| Claim # | 66 | 1 |
|---|---|---|

Although the conflicting claims are not identical, they are not patentably distinct from each other because they are substantially similar in scope and they use the same limitations.

In Addition, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to omit the additional elements in U.S. Patent No. **6,714,936** to arrive at the claims 41, 43, and 66 of Instant Application because the person would have realized that the remaining element would perform the same functions as before. "Omission of element and its function in combination is obvious expedient if the remaining elements perform same functions as before." See *In re Karlson* (CCPA) 136 USPQ 184, decide Jan 16, 1963, Appl. No. 6857, U.S. Court of Customs and Patent Appeals.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 41-44, 60-62, and 66 are rejected under 35 U.S.C. 102(e) as anticipated by Weinberg et al. (U.S. 6,144,962, hereinafter Weinberg).

**As to claim 41**, Weinberg discloses **a method for creating a highly connected network of nodes indicative of computer-readable data** (Fig. 1), **including the steps of**:

**operating a computer to capture data contained in at least one legacy database** (Figs. 7, 13-15, col. 3, lines 31-36, lines 44-63, col. 17, lines 59-61, scanning and mapping of Web sites, and includes the above-described GUI features for facilitating navigation of Web site maps, col. 24, lines 7-11, database query in connection with a URL of a site map); **and**

**operating a computer to structure the captured data as a set of linked nodes** (Figs. 1, 7, 13-15, col. 9, lines 1-3,col. 25, lines 43-56, The lines which interconnect the nodes (URL icons) in FIGS. 1-3 (and the subsequent figures with screen displays) represent links between URLs), **wherein each of the nodes includes at least one link to another one of the nodes** (Fig. 1, col. 12, lines 17-21, all of the nodes of the site map (with the exception of the home page node) are displayed as having a single incoming link, even though some of the URLs of the depicted Web site actually have multiple incoming links), **and the set of linked nodes is structured such that when one of the nodes is designated as a point of view, representations of the nodes can be displayed as a sea of node representations, viewed from said point of view** (Figs. 13-15, col. 25, line 43 to col. 26, line 19, simple database query was entered into a search page of the Infoseek.TM. search engine [i.e. select Infoseek.TM as a point of view]. FIG. 13, which is the first display screen of the sequence, illustrates a simple map 190 generated by opening a new map and then specifying http://www.infoseek.com/ as the URL. Displayed at the center of the map is the form page icon for the Infoseek.TM. search page. The 20 children 192 [i.e. a sea of node representations] of the form page icon correspond to external links).

**As to claim 42**, Weinberg discloses the method of claim 41, wherein the nodes have identical structure but at least some of the nodes have different content (col. 16, lines 58-61, Fig. 3, 45, 48, Fig. 4, content).

**As to claim 43**, Weinberg discloses **a method for creating a highly connected network of nodes indicative of computer-readable data** (Fig. 1), **including the steps of** :

**capturing data contained in at least one legacy database** (Figs. 7, 13-15, col. 3, lines 31-36, lines 44-63, col. 17, lines 59-61, scanning and mapping of Web sites, and includes the above-described GUI features for facilitating navigation of Web site maps, col. 24, lines 7-11, database query in connection with a URL of a site map);

**structuring the captured data as a set of linked nodes** (Figs. 1, 7, 13-15, col. 9, lines 1-3, col. 25, lines 43-56, The lines which interconnect the nodes (URL icons) in FIGS. 1-3 (and the subsequent figures with screen displays) represent links between URLs), **wherein each of the nodes includes at least one link to another one of the nodes** (Fig. 1, col. 12, lines 17-21, all of the nodes of the site map (with the exception of the home page node) are displayed as having a single incoming link, even though some of the URLs of the depicted Web site actually have multiple incoming links), **and the set of linked nodes is structured such that when one of the nodes is designated as a point of view, representations of the nodes can be displayed as a sea of node representations** (Figs. 13-15, col. 25, line 43 to col. 26, line 19, simple database query was entered into a search page of the Infoseek.TM. search engine [i.e. select Infoseek.TM as a point of view]. FIG. 13, which is the first display screen of the sequence, illustrates a simple

map 190 generated by opening a new map and then specifying http://www.infoseek.com/ as the URL. Displayed at the center of the map is the form page icon for the Infoseek.TM. search page. The 20 children 192 [i.e. a sea of node representations] of the form page icon correspond to external links);

**designating one of the nodes as the point of view** (Figs. 13-15, col. 25, line 43 to col. 26, line 19); and

**displaying said representations of the nodes as said sea of node representations, viewed from said point of view** (Figs. 13-15, col. 25, line 43 to col. 26, line 19).

**As to claim 44**, Weinberg discloses the method of claim 43, wherein said sea of node representations includes virtual reality renderings (Figs. 4-6, col. 7, lines 55-62, col. 10, lines 59-61).

**As to claim 60**, Weinberg discloses **a method for associating linked nodes** (Fig. 1), **wherein each of the nodes contains computer-readable data, at least one link to another one of the nodes, and a link identification for each event which links said each of the nodes to another one of the nodes** (Figs. 1-4, col. 12, lines 17-21)**, and wherein the linked nodes are structured such that when one of the nodes is designated as a point of view, representations of the nodes can be displayed as a sea of node representations** (Figs. 1-6, 13-15, col. 25, line 43 to col. 26, line 19) **said method including the steps of**:

**storing, in a context node, a meaningful context common to a set of the nodes, wherein the context node is linked to each of the nodes in the set** (Fig. 15, 200, 204, col. 25, line 43 to col. 26, line 12); **and**

**sharing a single link identification among the nodes in said set, thereby associating the nodes that are identified by said single link identification** (Fig. 15, link between Infoseek and Titles).

**As to claim 61**, Weinberg discloses the method of claim 60, also including the step of modulating a connection strength of the links that are identified by said single link identification, thereby sensitizing or desensitizing said links to further operations (Fig. 19, col. 28, lines 45 to col. 29, lines 6).

**As to claim 62**, Weinberg discloses **a method of establishing a set of linked nodes from data organized in rows and columns with column headings** (Figs. 1, 4 and col. 16, lines 40-57, where a set of linked nodes is established from a list view in which data organized in row and column in the list view represents a linked node), **wherein each of the nodes includes at least one link to another one of the nodes** (Figs. 1, 4), **the nodes are indicative of computer-readable data, and the set of linked nodes is structured such that when one of the nodes is designated as a point of view, representations of the nodes can be displayed as a sea of node representations, viewed from said point of view** (Figs. 13-15, col. 25, line 43 to col. 26, line 19, simple database query was entered into a search page of the Infoseek.TM. search engine [i.e. select Infoseek.TM as a point of view]. FIG. 13, which is the first display screen of the sequence,

illustrates a simple map 190 generated by opening a new map and then specifying http://www.infoseek.com/ as the URL. Displayed at the center of the map is the form page icon for the Infoseek.TM. search page. The 20 children 192 [i.e. a sea of node representations] of the form page icon correspond to external links), **said method including the steps of**:

**representing each of the column headings by an abstract node** (Figs. 1, 4 and col. 16, lines 40-57, annotation is represented as an abstract node 76);

**representing each cell of the data by a data node** (Figs. 1, 4 and col. 16, lines 40-57, each line of text displayed in the list view window 78 represents one node of the site map);

**establishing links between each said abstract node and each said data node that corresponds to a cell in a column whose column heading is represented by said abstract node** (Figs. 1, 4 , col. 17, lines 5-20); and

**establishing links between each said data node that corresponds to a cell in one of the rows** (Figs. 1, 4 and col. 16, lines 40-57, col. 17, lines 5-20, select a node in the upper window 76, the corresponding line in the List View window 78 is automatically highlighted).

**As to claim 62**, claim 66 recites similar limitations as discussed in claim 41 above and is therefore rejected along the same rationale. Furthermore, Weinberg discloses hierarchical file directory structures that display links between file directory and files (col. 2, lines 43-45, col. 12, lines 2-4, to display other types of hierarchical data structures, such as the tree structure of a conventional file system, col. 36, lines 42-43, the tree data structure represents a locally-stored arrangement of files and file directories).

***Response to Amendment and Remarks***

Applicant's remarks and arguments with respect to claims 41-44, 60-62, and 66 have been fully considered but are moot in view of the new ground(s) of rejection.

***Related Prior Arts***

The following list of prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- George H. Collier, "Thoth-II: hypertext with explicit semantics ", Conference on Hypertext and Hypermedia Proceedings of the ACM conference on Hypertext, Pages: 269 – 289, 1987.
- Esakov, Jeffrey et al., US 20020013834 A1, "Tracking And Graphical Display Of User Activity On An Information Network".
- Pooser; Todd et al., US 5812134 A, "User interface navigational system & method for interactive representation of information contained within a database".

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shew-Fen Lin whose telephone number is 571-272-2672. The examiner can normally be reached on 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Shew-Fen Lin /S. L./
Examiner, Art Unit 2166
June 18, 2009